

**Testimony of Charles M. Brewer  
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**Senate Committee on Commerce, Science, and Transportation  
Full Committee Hearing  
Re: Broadband**

**April 13, 1999**

I am Charles Brewer, MindSpring's Founder, Chairman, and CEO. MindSpring started as a local ISP in Atlanta in 1994, and now we are the country's fourth largest Internet service provider, serving over 1.1 million customers nationwide.

I am here to talk about broadband Internet access. I will start with two observations.

First, Internet access will be the core telecom service of the future. Not only will essentially everyone in the developed world be connected to the Internet, but more and more applications will migrate to the Internet. In our homes we will use a variety of devices which communicate via the Internet. We will use telephone-like devices to have voice conversations over the Internet. We will use one-way and two-way video devices that communicate through the Internet. We will use many different web-capable and email-capable devices. And certainly we will use important new Internet applications that we cannot yet imagine.

As this happens, of course, the circuit switched phone network that we know today will shrink in importance, eventually becoming quite insignificant.

This is not a bold prediction. This is quite certain! Internet access will be the core telecom service of the future. By far! The only significant debate now occurring about this is how long the transformation will take.

Second, this telecom world of the future will clearly require home connectivity which is truly broadband, truly always-on, which is available at an affordable consumer price. All three of those requirements are crucial. I'm afraid this means that for the foreseeable future this connectivity must come through a wire. I dearly wish that there were wireless alternatives! But, there are not. All of the currently identifiable wireless candidates fall short on at least one of those three criteria, and there is no guarantee that we will ever have wireless alternatives which truly meet these criteria.

What does this mean? It means that the overwhelming majority of consumers will have this core telecom service delivered to their homes through a wire - either the cable company wire or the telephone wire. Some lucky consumers will have a third wire to their

home, but in any case the number of wires or other pathways to deliver this core service to any given home will be very small.

That is the reality of the situation. And this reality has one clear implication:

**The only way to have a competitive market for the core telecom service of the future is allow competitors to share the wires leading to customers' homes.**

Of course, that is how it works in today's Internet access market. The last mile connection in today's narrowband world is made via a phone call. Local telephone companies cannot block that call. Consumers can use that last mile connection to connect to dozens of competing ISPs. And, we ISPs compete fiercely on many points of customer choice including price, ease of use, technical support, reliability, and network performance. Together, we have driven the incredible growth of the Internet.

In today's world, the Internet Service Provider is not regulated. The Internet itself is not regulated. However, the underlying telecommunications conduit is regulated to the extent of requiring non-discriminatory service, interconnection agreements, and reasonable resale agreements. This system works spectacularly! In fact, Congress endorsed this very system when they adopted the 1996 Telecommunications Act. Customer choice has flourished! Innovation has flourished! We have gone from zero percent of households to 30 percent of households connected to the Internet in just four years. Billions of dollars of investment have gone into competitive telecommunications networks and Internet infrastructure.

This sound public policy applies equally well to the broadband world we are now entering. The problem is, we are not following the policy! For many homes, the cable company wire is likely to be the only one capable of delivering high bandwidth, two way service for many years. Amazingly, the expressed intention of most of the cable industry is to not offer access to their last mile networks, on any terms, to competitive service providers.

If MindSpring or any other ISP built a new telecommunications network wiring up consumers' homes and began offering our Internet access services through that network, we would clearly be required to offer the underlying transmission capacity of that network to competing service providers on a just, reasonable, and non-discriminatory basis. (Of course, the ISP service itself would remain unregulated.) By offering the underlying transmission capability which allows Internet access services, cable companies are clearly entering the two-way, telecommunications world. How can it possibly be that they are not subject to the same requirements as any other new entrant?

What would have happened if local telephone companies had not allowed consumers to connect to the ISP of their choice? The answer is very clear. The Internet phenomenon that we are experiencing today would not exist!

And what if the companies that own the broadband wires leading to homes do not allow consumers to connect to the ISP of their choice? It would destroy the very factors that have made the Internet so successful.

We **MUST** make sure that the open nature of today's Internet survives the transition to broadband networks. Congress and the FCC didn't let the telephone companies block access then, and they shouldn't let the cable companies block access now. I urge you to take immediate action to make sure the underlying transmission capacity of last mile networks - telephone company, cable company, or otherwise - is available to competitive service providers on a non-discriminatory basis.

This is **NOT** imposing some onerous new regulation on anyone - it is simply and justly part of the same successful and pro-competitive industry structure that we currently have.

This is **NOT** regulating the Internet. In fact, ensuring open access and competitive choice is the key to avoiding regulation of the Internet.

This will **NOT** retard investment. One need look no farther than the billions of dollars being invested in competitive telecom companies and Internet infrastructure today to see that.

This is **NOT** technologically difficult to implement. MindSpring has a working open access arrangement with a competitive cable company in the southeast today.

This is the **ONLY** way we can have a vibrantly competitive market for the core telecom service of the future. And that is supremely important - for consumers, for our economy, and for the well being of our country.

Thank you very much for the opportunity to participate today.